102-12

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT AMENDMENTS OF 1991

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Public Law 102-12
102d Congress

An Act

Mar. 18, 1991
[H.R. 555]

To amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by that Act; to amend title 38, United States Code, to clarify veterans' reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Soldiers' and Sailors' Civil Relief Act Amendments of 1991.
50 USC app. 501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soldiers' and Sailors' Civil Relief Act Amendments of 1991".

SEC. 2. EVICTION AND DISTRESS DURING MILITARY SERVICE.

(a) INCREASED MAXIMUM RENTAL AMOUNT FOR APPLICABILITY OF STAY.—Section 300 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 530) is amended by striking out "$150" in subsection (1) and inserting in lieu thereof "$1,200".

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by redesignating subsections (1), (2), (3), and (4) as subsections (a), (b), (c), and (d), respectively; and

(2) in subsection (c), as so redesignated, by striking out "subsection (1) hereof" and inserting in lieu thereof "subsection (a)".

50 USC app. 530 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies to actions for eviction or distress that are commenced after July 31, 1990.

SEC. 3. EXTENSION OF POWER OF ATTORNEY PROTECTION.

Subsection (c) of section 701 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 591) is amended to read as follows:

"(c) This section applies to the following powers of attorney executed by a person in military service or under a call or order to report for military service (or who has been advised by an official of the Department of Defense that such person may receive such a call or order):

"(1) A power of attorney that is executed during the Vietnam era (as defined in section 101(29) of title 38, United States Code).

"(2) A power of attorney that expires by its terms after July 31, 1990.".

SEC. 4. PROFESSIONAL LIABILITY PROTECTION FOR CERTAIN PERSONS ORDERED TO ACTIVE DUTY IN THE ARMED FORCES.

Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 is amended by adding at the end the following new section:

50 USC app. 592.

"SEC. 702. (a) This section applies to a person who—

"(1) after July 31, 1990, is ordered to active duty (other than for training) pursuant to section 672 (a) or (g), 673, 673b, 674, 675, or 688 of title 10, United States Code, or who is ordered to active duty under section 672(d) of such title during a period

when members are on active duty pursuant to any of the preceding sections; and

"(2) immediately before receiving the order to active duty—

"(A) was engaged in the furnishing of health-care services or other services determined by the Secretary of Defense to be professional services; and

"(B) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to such person during the period of the person's active duty unless the premiums are paid for such coverage for such period.

"(b)(1) Coverage of a person referred to in subsection (a) by a professional liability insurance policy shall be suspended in accordance with this subsection upon receipt of the written request of such person by the insurance carrier.

"(2) A professional liability insurance carrier—

"(A) may not require that premiums be paid by or on behalf of a person for any professional liability insurance coverage suspended pursuant to paragraph (1); and

"(B) shall refund any amount paid for coverage for the period of such suspension or, upon the election of such person, apply such amount for the payment of any premium becoming due upon the reinstatement of such coverage.

"(3) A professional liability insurance carrier shall not be liable with respect to any claim that is based on professional conduct (including any failure to take any action in a professional capacity) of a person that occurs during a period of suspension of that person's professional liability insurance under this subsection. For the purposes of the preceding sentence, a claim based upon the failure of a professional to make adequate provision for patients to be cared for during the period of the professional's active duty service shall be considered to be based on an action or failure to take action before the beginning of the period of suspension of professional liability insurance under this subsection, except in a case in which professional services were provided after the date of the beginning of such period.

"(c)(1) Professional liability insurance coverage suspended in the case of any person pursuant to subsection (b) shall be reinstated by the insurance carrier on the date on which that person transmits to the insurance carrier a written request for reinstatement.

"(2) The request of a person for reinstatement shall be effective only if the person transmits the request to the insurance carrier within 30 days after the date on which the person is released from active duty. The insurance carrier shall notify the person of the due date for payment of the premium of such insurance. Such premium shall be paid by the person within 30 days after the receipt of that notice.

"(3) The period for which professional liability insurance coverage shall be reinstated for a person under this subsection may not be less than the balance of the period for which coverage would have continued under the insurance policy if the coverage had not been suspended.

"(d) An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any person for the minimum period of the reinstatement of such coverage required under subsection (c)(3) to an amount greater than the amount chargeable for such coverage for such period before the

suspension, except to the extent of any general increase in the premium amounts charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

"(e) This section does not—

"(1) require a suspension of professional liability insurance coverage for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

"(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

"(f)(1) A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a person whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

"(A) the action was commenced during that period;

"(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

"(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the person.

"(2) Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any person, the action shall be deemed to have been filed on the date on which the professional liability insurance coverage of such person is reinstated under subsection (c).

"(g) In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

"(h) If a person whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

"(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such person under subsection (f)(1) shall terminate on the date of the death of such person; and

"(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased person in the same manner and to the same extent as such carrier would be liable if the person had died while covered by such insurance but before the claim was filed.

"(i) In this section:

"(1) The term 'active duty' has the meaning given that term in section 101 of title 10, United States Code.

"(2) The term 'profession' includes occupation.

"(3) The term 'professional' includes occupational.".

SEC. 5. HEALTH INSURANCE REINSTATEMENT UPON REEMPLOYMENT.

(a) AMENDMENT TO TITLE 38.—Paragraph (1) of section 2021(b) of title 38, United States Code, is amended—

(1) by inserting "(A)" after "(b)(1)"; and

(2) by adding at the end the following:

"(B) In the case of employer-offered health insurance, an exclusion or waiting period may not be imposed in connection with coverage of a health or physical condition of a person entitled to participate in that insurance under subparagraph (A), or a health or physical condition of any other person who is covered by the insurance by reason of the coverage of such person, if—

"(i) the condition arose before or during that person's period of training or service in the Armed Forces;

"(ii) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by such person in the insurance; and

"(iii) the condition of such person has not been determined by the Secretary to be service-connected.".

(b) AMENDMENT TO SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 is amended by adding after section 702, as added by section 4, the following new section:

"SEC. 703. (a) A person who, by reason of military service described in section 702(a)(1), is entitled to the rights and benefits of this Act shall also be entitled upon release from such military service to reinstatement of any health insurance which (1) was in effect on the day before such service commenced, and (2) was terminated effective on a date during the period of such service. 50 USC app. 593

"(b) An exclusion or a waiting period may not be imposed in connection with reinstatement of health insurance coverage of a health or physical condition of a person under subsection (a), or a health or physical condition of any other person who is covered by the insurance by reason of the coverage of such person, if—

"(1) the condition arose before or during that person's period of training or service in the Armed Forces;

"(2) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by such person in the insurance; and

"(3) the condition of such person has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

"(c) Subsection (a) does not apply in the case of employer-offered insurance benefits in which a person referred to in such subsection is entitled to participate pursuant to the provisions of chapter 43 of title 38, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of August 1, 1990. 38 USC 2021 note

SEC. 6. STAY OF JUDICIAL PROCEEDINGS. 50 USC app. 521 note

(a) STAY OF ACTION OR PROCEEDING.—In any judicial action or proceeding (other than a criminal proceeding) in which a member of the Armed Forces described in subsection (b) is involved (either as plaintiff or defendant), the court shall, upon application by such member (or some other person on the member's behalf) at any stage before final judgment is entered, stay the action or proceeding until a date after June 30, 1991.

(b) MEMBERS COVERED.—A member of the Armed Forces is covered by subsection (a) if at the time of application for the stay of a judicial action or proceeding the member—

(1) is on active duty; and

(2) is serving outside the State in which the court having jurisdiction over the action or proceeding is located.

(c) DEFINITION.—For purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

SEC. 7. EXERCISE OF RIGHTS UNDER ACT NOT TO AFFECT CERTAIN FUTURE FINANCIAL TRANSACTIONS.

Article I of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 510 et seq.) is amended by adding at the end the following new section:

50 USC app. 518.

"SEC. 108. Application by a person in military service for, or receipt by a person in military service of, a stay, postponement, or suspension pursuant to the provisions of this Act in the payment of any tax, fine, penalty, insurance premium, or other civil obligation or liability of that person shall not itself (without regard to other considerations) provide the basis for any of the following:

"(1) A determination by any lender or other person that such person in military service is unable to pay such civil obligation or liability in accordance with its terms.

"(2) With respect to a credit transaction between a creditor and such person in military service—

"(A) a denial or revocation of credit by the creditor;

"(B) a change by the creditor in the terms of an existing credit arrangement; or

"(C) a refusal by the creditor to grant credit to such person in substantially the amount or on substantially the terms requested.

"(3) An adverse report relating to the creditworthiness of such person in military service by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information.

"(4) A refusal by an insurer to insure such person.".

SEC. 8. CLARIFICATION OF TITLE 38 REEMPLOYMENT RIGHTS COVERAGE FOR RESERVISTS.

(a) IN GENERAL.—(1) Subsection (g) of section 2024 of title 38, United States Code, is amended—

(A) by striking out "active duty for not more than 90 days" and inserting in lieu thereof "active duty (other than for training)"; and

(B) by inserting ", including any period of extension of active duty under section 673b of title 10" before the period at the end.

38 USC 2024 note.

(2) The amendments made by paragraph (1) shall apply to any member of a reserve component of the Armed Forces who is ordered to active duty (other than for training) under section 673b of title 10, United States Code, after July 31, 1990.

(b) TECHNICAL AMENDMENT.—(1) Subsection (a) of such section is amended by striking out "provided for by this section" and inserting in lieu thereof "provided for by this chapter".

Effective date. 38 USC 2024 note.

(2) The amendment made by paragraph (1) shall take effect as of December 3, 1974.

SEC. 9. TECHNICAL AMENDMENTS TO SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.

The Soldiers' and Sailors' Civil Relief Act of 1940 is amended as follows:

(1) Section 101 (50 U.S.C. App. 511) is amended—

(A) in paragraph (1), by inserting "the Air Force," after "the Marine Corps,"; and

(B) in paragraph (2), by striking out "shall include" and all that follows through "discharge" and inserting in lieu thereof "means, in the case of any person, the period beginning on the date on which the person enters active service and ending on the date of the person's release".

(2) Section 102 (50 U.S.C. App. 512) is amended by striking out ", including the Philippine Islands while under the sovereignty of the United States,".

(3) Section 103(4) (50 U.S.C. App. 513(4)) is amended by striking out "after the date of the enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942".

(4) Section 105 (50 U.S.C. App. 515) is amended—

(A) by striking out "The Secretary of War and the Secretary of the Navy" and all that follows through "to insure" in the first sentence and inserting in lieu thereof "The Secretary of Defense and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, shall ensure"; and

(B) by striking out "the Secretary of War and the Secretary of the Navy" in the second sentence and inserting in lieu thereof "the Secretary of Defense and the Secretary of Transportation".

(5) Section 106 (50 U.S.C. App. 516) is amended—

(A) by striking out "Selective Training and Service Act of 1940, as amended," and inserting in lieu thereof "Military Selective Service Act (50 U.S.C. App. 451 et seq.)";

(B) by striking out "the Enlisted Reserve Corps" and inserting in lieu thereof "a reserve component of the Armed Forces"; and

(C) by striking out "he reports for such service" and inserting in lieu thereof "such member reports for military service or the date on which the order is revoked, whichever is earlier".

(6) Section 205 (50 U.S.C. App. 525) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942".

(7) Section 206 (50 U.S.C. App. 526) is amended—

(A) by striking out "per centum per annum" each place it appears and inserting in lieu thereof "percent per year"; and

(B) by striking out "prior to his entry" and all that follows through "bear interest" and inserting in lieu thereof "before that person's entry into that service shall, during any part of the period of military service, bear interest".

(8) Section 300 (50 U.S.C. App. 530) is amended—

(A) in subsection (c), as redesignated by section 2(b), by striking out "shall be guilty" and all that follows through "$1,000," and inserting in lieu thereof "shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year,"; and

(B) in subsection (d), as redesignated by section 2(b), by striking out "Secretary of War," and all that follows

through "as the case may be," and inserting in lieu thereof "Secretary of Defense or Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy,".

(9) Sections 301(2), 302(4), 304(3), and 305(3) (50 U.S.C. App. 531(2), 532(4), 534(3), 535(3)) are amended by striking out "shall be guilty" and all that follows through "$1,000," and inserting in lieu thereof "shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year,".

(10) Section 302(3) (50 U.S.C. App. 532(3)) is amended by striking out "after the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 and".

(11) Section 400(a) (50 U.S.C. App. 540(a)) is amended by striking out "before the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 or not less than one hundred and eighty days before" in clause (2) and inserting in lieu thereof "not less than 180 days before".

(12) Section 401 (50 U.S.C. App. 541) is amended—

(A) by striking out "Administrator of Veterans' Affairs" in the first sentence and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) by striking out "Veterans' Administration" both places it appears and inserting in lieu thereof "Secretary"; and

(C) by striking out "Administrator" in the last sentence and inserting in lieu thereof "Secretary".

(13) Section 402 (50 U.S.C. App. 542) is amended—

(A) in the first sentence, by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence, by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary".

(14) Section 403 (50 U.S.C. App. 543) is amended—

(A) in the first sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary".

(15) Section 404 (50 U.S.C. App. 544) is amended by striking out "Veterans' Administration" both places it appears and inserting in lieu thereof "Secretary of Veterans Affairs".

(16) Section 405 (50 U.S.C. App. 545) is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(17) Section 407 (50 U.S.C. App. 547) is amended—

(A) in the first sentence, by striking out "The Administrator of Veterans' Affairs is hereby authorized and directed to" and inserting in lieu thereof "The Secretary of Veterans Affairs shall"; and

(B) in the second sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary".

Repeal.

(18) Section 408 (50 U.S.C. App. 548) is repealed.

(19) Section 504(3) (50 U.S.C. App. 564(3)) is amended by striking out "within six months after the effective date of this Act or".

(20) Section 505(1) (50 U.S.C. App. 565(1)) is amended by inserting "(30 U.S.C. 28)" after "section 2324 of the Revised Statutes of the United States".

(21) Section 506(2) (50 U.S.C. App. 566(2)) is amended—

(A) by striking out "six months after the effective date of this Act or"; and

(B) by striking out "General Land Office" and inserting in lieu thereof "Bureau of Land Management".

(22) Section 507 (50 U.S.C. App. 567) is amended—

(A) by striking out "General Land Office" in the second sentence and inserting in lieu thereof "Bureau of Land Management";

(B) by striking out "a register of a United States land office" in the third sentence and inserting in lieu thereof "an officer designated by the Secretary of the Interior"; and

(C) by striking out ", inclusive" in the last sentence.

(23) Section 510(2) (50 U.S.C. App. 570(2)) is amended by striking out "prior to the effective date of this Act" and inserting in lieu thereof "before October 17, 1940".

(24) Section 514 (50 U.S.C. App. 574) is amended—

(A) by striking out "orders: *Provided*, That nothing" in paragraph (1) and inserting in lieu thereof "orders. Nothing"; and

(B) by striking out "the use thereof:" in paragraph (2) and all that follows through "has been paid" and inserting in lieu thereof "the use thereof, but only if a license, fee, or excise required by the State or territory, possession, or District of Columbia of which the person is a resident or in which the person is domiciled has been paid".

(25) Section 600 (50 U.S.C. App. 580) is amended by striking out "the date of the approval of this Act" and inserting in lieu thereof "October 17, 1940,".

(26) Section 601 (50 U.S.C. App. 581) is amended—

(A) in paragraph (1), by striking out "Chief of the Bureau of Navigation of the Navy Department" and inserting in lieu thereof "Chief of Naval Personnel"; and

(B) in paragraph (3)—

(i) by striking out "Department of War or the Navy" and inserting in lieu thereof "Department of Defense"; and

(ii) by striking out "jurisdiction: *Provided*, That no" and inserting in lieu thereof "jurisdiction. No".

(27) Section 604 (50 U.S.C. App. 584) is amended—

(A) by striking out "1945: *Provided*, That" and inserting in lieu thereof "1945, except that"; and

(B) by striking out "thereafter: *Provided further*, That whenever" and inserting in lieu thereof "thereafter. Whenever".

Approved March 18, 1991.

LEGISLATIVE HISTORY—H.R. 555 (S. 330):

CONGRESSIONAL RECORD, Vol. 137 (1991):
Jan. 29, considered and passed House.
Feb. 21, considered and passed Senate, amended, in lieu of S. 330.
Feb. 27, House concurred in Senate amendment.

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